

**Remarks**

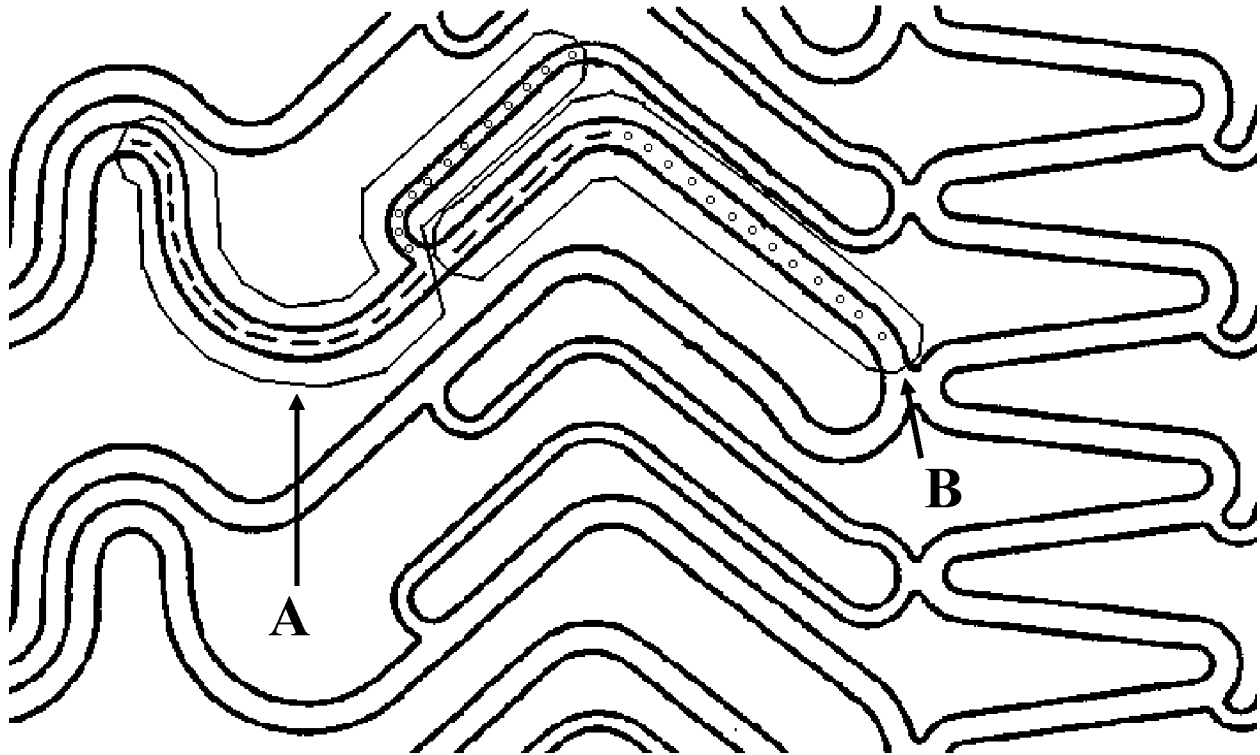
This Amendment is in response to the Office Action dated **October 25, 2007**. The Office Action: **I)** withdrew claims 23-36 from prosecution for reading on non-elected species, **II)** rejected claims 1-13 and 15-22 under 35 USC § 102(e) as being anticipated by Published US Patent Application 2006/0025849 (hereinafter Kaplan), and, **III)** rejected allowable claim 14 for depending from a rejected claim. These actions will each be addressed according to the above enumeration.

**I) Withdrawal of non-elected species**

The Office Action withdrew claims 23-36 from prosecution for reading on non-elected species. Without prejudice or disclaimer regarding the merit of the restriction requirement against these claims, Applicant concedes to their withdrawal. Applicant notes however that in addition to those species identified in the Office Action as corresponding to specific figures depicted in the Application, additional species may exist which are described in the specification and claims and which are not subject to the restriction requirement identified by the Office Action.

**II) 35 USC § 102(e) Rejection**

The Office Action rejected claims 1-13 and 15-22 under 35 USC § 102(e) as being anticipated by Kaplan. The Office Action provided support for this rejection in the form of a marked up copy of Kaplan's FIG. 2F. Because the marked up copy was difficult to read and understand, Applicant's arguments are made in reference to the following marked up copy of Kaplan's FIG. 2F which displays Applicant's best understanding of the Office Action's argument.

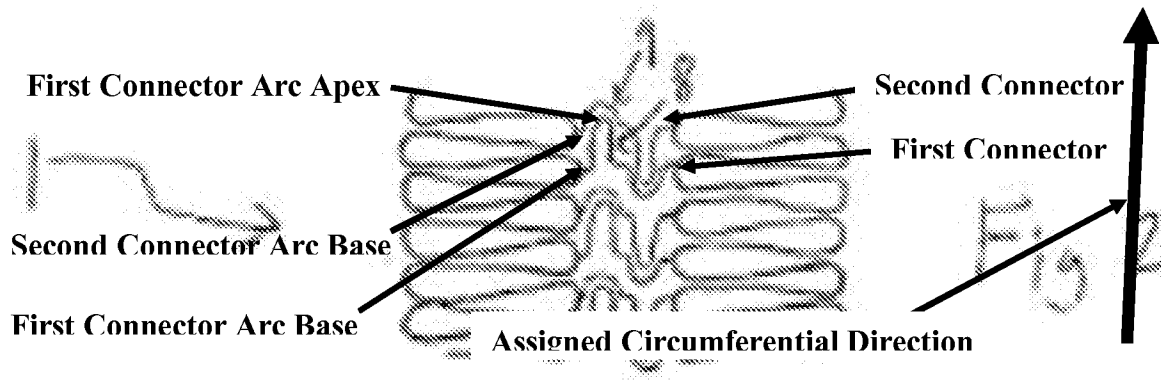


The Office Action stated that Kaplan discloses a first connector (surrounded by perimeter A) and a second connector (surrounded by perimeter B). Each connector in turn has a first portion of a first curvature (depicted by the dashed portion) and a second curvature (depicted by the dotted portion). Even if for argument's sake, portions A and B are assumed to be connectors and the dashed and dotted portions are portions of curvatures, for at least the following reasons, Kaplan does not anticipate the claims.

(a) Kaplan does not disclose a second portion of the first connector nesting within the first portion of the second connector. In the context of this application, “nesting” means portions fitting together in the manner described in the Specification and Drawings. As a matter of law, the Specification and Drawings are the source for defining the term “nesting” because an application is entitled to be its own lexicographer (*Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) (*en banc*)) and particular claim terms are defined according to their use in the Specification *Id.*

The exact definition of “nesting” given in the Specification requires portions to meet two criteria: **1)** they must have an arced portion of a connector which opens in the same

circumferential direction as an arced portion of an adjacent connector (Specification, Page 6 lines 23-30), and **2)** their arc must simultaneously have an apex which is more circumferential in one direction than the base of another arc and also have its base be more circumferential in the other direction than the base of the other arc. This can best be seen in the illustration of nesting provided in the following modified version of Applicant's FIG. 2.



Applicant's FIGs. 2 and 4 illustrate how the portions fit together in a nesting manner. As the above shows, the arc of a first connector (item 8) will be nested in an arc of a second connector (item 9) only if the two conditions are met. Firstly the two arcs must open in the same circumferential direction (downward in FIG. 2), and secondly the relative bases and apices must be properly positioned. In the above, the first connector's arc base is less circumferential than the second connector's arc base relative to the assigned circumferential direction. In contrast, the first connector's arc apex is more circumferential than the second connector's arc base relative to the assigned circumferential direction.

Thus according to the definition of nesting, Kaplan does not disclose a second portion of the first connector nesting within the first portion of the second connector. What the Office Action refers to as Kaplan's second portion of the first connector does not open in the same circumferential direction as what the Office Action refers to as the first portion of the second connector. In fact these two portions do not open at all. Furthermore these portions of Kaplan do not have discernable apices and bases and do not have a second arc base less circumferential than a first arc apex. For at least this reason Kaplan does not anticipate the claimed invention.

**(b)** Kaplan does not disclose a second portion of the second connector nesting within

the first portion of the first connector. Not only is there no peak in the second portion of the second connector (the dotted part of B), no portion of the second portion of the second connector is longitudinally aligned with any part of the first portion of the first connector (the dashed portion of A). Because these two portions are not even aligned with each other, it is impossible for them to fit together so they cannot be nested together.

(c) Kaplan does not disclose a second connector in which a portion of a first curvature has a different flexibility than a portion of a second curvature. Kaplan describes different connectors having different elasticity but does not describe the dashed and dotted portions of item B having different flexibilities.

As a result, Kaplan does not disclose every element recited in claims 1-13 and 15-22. For at least this reason Kaplan does not anticipate these claims and rejection under 35 USC § 102(e) is not appropriate. Notification to this effect would be greatly appreciated.

### **III) Dependency Rejection**

The Office Action stated that claim 14 was otherwise allowable but that it depended from a rejected base claim. Although Applicant does not concede that base claim 1 should be rejected, in order to facilitate prosecution of this application, instant claim 14 has been amended into independent form. As a result, no basis for rejecting claim 14 remains.

**Conclusion**

Based on the previous remarks, and the Office Action's statements regarding the allowability of the claims, Applicant respectfully submits this application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-22 are requested.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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